

REMARKS

In the non-final Office Action, the Examiner objects to claim 9; rejects claims 1, 3-8 under 35 U.S.C. § 102(b) as being anticipated by DUFOSSE (U.S. Publication No. 2002/0136398); and rejects claim 2 under 35 U.S.C. § 103(a) as being unpatentable over DUFOSSE in view of MINERVINI (U.S. Publication No. 2006/0116180). Applicant respectfully traverses these rejections with respect to the claims presented herein.

By way of the present Amendment, Applicant amends claims 1 and 6-8 to improve form and cancels claim 9 without prejudice or disclaimer. New claim 10 has been added. No new matter has been entered. Claims 1-8 and 10 are now pending.

Claims 1 and 3-8 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by DUFOSSE. Applicant respectfully traverses this rejection.

Independent claim 1 is directed to an electro-acoustic communications unit for producing frequency characteristics in an alert mode and phone mode, comprising: a housing with a wall defining an interior, having a certain volume (V), and an exterior, an acoustic driver for generating acoustic signals, said acoustic driver being mounted to the wall, an acoustic port, having a length (L) and a cross-sectional area (A), said acoustic port penetrating the wall and connecting the interior of the housing with the exterior of said housing, wherein the housing defined by the wall is tightly sealed and the volume (V), length (L) and cross-sectional area (A) are dimensioned in relation to the acoustic driver such that said electro-acoustic communications unit achieves the frequency characteristics in the phone mode when engaging an exterior end of said acoustic port of the electro-acoustic communications unit with a user's ear, wherein said frequency characteristics comprise an increase of high-frequency performance level relative to a performance of a communications unit alone. Applicant respectfully submits that DUFOSSE does not disclose or suggest this combination of features.

For example, DUFOSSE does not disclose or suggest that the housing defined by the wall is tightly sealed and that the volume (V), length (L) and cross-sectional area (A) are dimensioned in relation to the acoustic driver such that said electro-acoustic communications unit achieves the frequency characteristics in the phone mode ..., wherein said frequency characteristics comprise an increase of high-frequency performance level relative to a performance of a communications unit alone, as recited in claim 1. Regarding the feature of “wherein said desired frequency characteristics comprises an increase of the high-frequency performance level relative to the performance of a communications unit alone,” the Office Action (page 3) relies on “(see fig. 1-2, page 2, sections [000036-0039]),” to allegedly disclose this feature. Applicant respectfully disagrees with the Examiner’s interpretation of DUFOSSE.

Sections [0036] to [0039] of DUFOSSE recite:

[0036] It is desirable to provide a seal 10 to fix and seal the transducer 4 to the wall 6. It is also possible to accommodate a printed circuit (not shown) of the telephone in the cavity 3.

[0037] It is also possible to provide a plurality of apertures 7 blocked by the membrane 5. This increases the bandwidth.

[0038] The first aperture 8 is preferably in the area of the casing intended to come into contact with the ear of the user. The first aperture 7 and the second aperture 8 are preferably less than 25 mm apart on the same wall. This dimension is less than the average width of the human ear and thus enables a user to place their ear over the first and second apertures 7 and 8. The sound quality perceived by the user is improved even in discreet earpiece mode.

[0039] Conclusive trials have been carried out on a telephone handset having a cavity 3 with a height H of 10 mm, a length L of 50 mm, and a depth P of 30 mm. There was also a 3.5 mm diameter second aperture 8. The tube 9 used for these trials projected 6 mm into the cavity 3. The resulting resonator had a resonant frequency of the order of 500 Hz, a sufficiently low frequency for good sound reproduction in handsfree mode.

Section [0039] of DUFOSSE discloses that a resonant frequency of a resonator is 500 Hz, which is a “sufficiently low frequency.” Therefore, as the resonator of DUFOSSE is designed for low frequency amplification (see Abstract), DUFOSSE does not disclose or suggest that the volume (V), length (L) and cross-sectional area (A) are dimensioned in relation to the acoustic driver such that said electro-acoustic communications unit achieves an **increase in high-frequency** performance, as required by claim 1. Therefore, DUFOSSE does not disclose or suggest that the volume (V), length (L) and cross-sectional area (A) are dimensioned in relation to the acoustic driver such that said electro-acoustic communications unit achieves the frequency characteristics in the phone mode ..., wherein said frequency characteristics comprise an increase of high-frequency performance level relative to a performance of a communications unit alone, as recited in claim 1.

Therefore, Applicant respectfully submits that DUFOSSE does not disclose or suggest the combination of features as recited in claim 1. Accordingly, withdrawal of the rejection and allowance of claim 1 are respectfully requested.

Claims 3-8 depend from claim 1. Applicant submits that these claims are allowable for at least the reasons as set forth above with respect to claim 1.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over DUFOSSE in view of MINERVINI. Applicant respectfully traverses this rejection.

Claim 2 depends from claim 1. Applicant respectfully submits that the disclosure of MINERVINI does not remedy the deficiencies of DUFOSSE as set forth above with respect to claim 1. Accordingly, Applicant respectfully requests withdrawal of the rejection and allowance of claim 2.

New independent claim 10 recites features similar to, but of different scope than, claim 1. For reasons similar to those discussed above with respect to claim 1, the DUFOSSE reference

does not disclose or suggest each of the features of claim 10. Accordingly, allowance of claim 10 is respectfully requested.

As Applicant's amendments and remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to modify references, assertions as to dependent claims, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such assertions/requirements in the future.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

HARRITY & SNYDER, L.L.P.

By: /Steven S. Kelley/
Steven S. Kelley
Reg. No. 43,449

Date: June 5, 2008
11350 Random Hills Rd.
Suite 600
Fairfax, Virginia 22030
(571) 432-0800

Customer Number: 58561